

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JACK COOPER TRANSPORT CO., INC.,

Plaintiff,

v.

**CANNONBALL EXPRESS, INC.,
CANNONBALL EXPRESS TRANSPORTATION
CO., LLC, and CANNONBALL EXPRESS
TRANSPORTATION, LLC,**

Defendants.

Case No. 06-cv-306-DRH

ORDER

HERNDON, District Judge:

Pursuant to the Court's March 29, 2007 Order (Doc. 23) requiring a jurisdictional brief, Plaintiff has submitted the following memorandum (Doc. 26) in order to demonstrate that complete diversity exists between the parties in order establish diversity jurisdiction under **28 U.S.C. § 1332**. Particularly of concern was the fact Plaintiff had not properly plead the citizenship of the defendant LLCs. The the Seventh Circuit deems an LLC a citizen "of every state of which any member is a citizen." ***Belleville Catering Co. v. Champaign Market Place, LLC*, 350 F.3d 691, 692 (7th Cir. 2003)(citing *Cosgrove v. Bartolotta*, 150 F.3d 729 (7th Cir.1998))**.

Reviewing said memorandum, the Court notes that Plaintiff has alleged that one LLC – Cannonball Express Transportation Co., LLC, does not exist (Doc.

26, ¶ 2). Cannonball Express Transportation, LLC, however, is alleged to be comprised of members Bruce Meyers and Jon Meyers. Plaintiff further alleges both members are “citizens of Nebraska” (*Id.* at ¶ 3). In turn, Plaintiff refers the Court to the attached Exhibit A, which is a letter, dated April 9, 2007, from Cannonball Express Transportation, LLC’s attorney to Plaintiff’s attorney. Yet, the letter actually states that Bruce Meyers and Jon Meyers are “*residents* of Nebraska” (Doc. 26, Ex. A)(emphasis added). This will not suffice as the exhibit does not substantiate Plaintiff’s allegations of citizenship. Residency is not the same, under the law, as citizenship. ***See Simon v. Allstate Employee Group Medical Plan*, 263 F.3d 656, 658 n.1 (7th Cir. 2001)(citations omitted)(“An allegation of residency, however, is insufficient to establish diversity jurisdiction.”)**. Consequently, to evidence citizenship, a party cannot rely upon substantiating evidence showing only proof of residency.

Thus, the Court must require Plaintiff to once again attempt to properly establish diversity jurisdiction. Plaintiff is allowed until **Wednesday, April 25, 2007**, to file its Second Jurisdictional Brief.

IT IS SO ORDERED.

Signed this 17th day of April, 2007.

/s/ David RHerndon
United States District Judge